



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

**REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866**

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Article Number: 7005 3110 0000 5930 0336

Honorable Joseph Vas, Mayor
City of Perth Amboy
260 High Street
Perth Amboy, NJ 08861

Re: **ORDER CWA-02-2008-3033**
City of Perth Amboy (Perth Amboy) NJPDES No. NJ0156132
ORDER UNDER SECTION 309(a) OF THE CLEAN WATER ACT,
33 U.S.C. §1319(a)

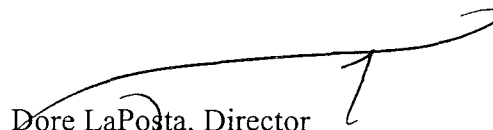
Dear Mayor Vas:

The United States Environmental Protection Agency ("EPA"), Region 2, has made a finding that the City of Perth Amboy ("Perth Amboy") is in violation of the Clean Water Act, 33 U.S.C. §1251 *et seq.* ("CWA"), for discharging pollutants in persistent violation of Section 301, 33 U.S.C. §1311, and the conditions and limitations of the New Jersey Pollutant Discharge Elimination System ("NJPDES") general permit for combined sewer systems (NJ0105023), issued under Section 402 of the CWA, 33 U.S.C. §1342. Enclosed are two originals of ORDER CWA-02-2008-3033, issued pursuant to Section 309(a) of the CWA, 33 U.S.C. §1319(a), which detail the findings of violation and required compliance actions to be taken.

Please acknowledge receipt of this ORDER on one of the originals and return it by mail in the enclosed envelope. Failure to comply with the enclosed ORDER may subject Perth Amboy to civil/criminal penalties pursuant to Section 309 of the CWA, 33 U.S.C. §1319.

If you have any questions regarding this ORDER, please do not hesitate to contact me or have your staff contact Douglas McKenna, Chief, Water Compliance Branch, at (212) 637-4244.

Sincerely,


Dore LaPosta, Director
Division of Enforcement and Compliance Assistance

Enclosures

cc: Wolfgang Skacel, Assistant Commissioner, Compliance and Enforcement,
NJDEP (w/enclosure)
James Hamilton, Administrator, Water Enforcement and Compliance element,
NJDEP (w/enclosure)

bcc: (w/enclosure)
Douglas McKenna, DECA-WCB
Henry Mazzucca, DECA-WCB
Larry Gaugler, DECA-WCB
Phyllis Feinmark ORC/WGL
Diane Gomes, ORC/WGL
Chris Saporita, ORC/WGGL
Patrick Harvey, DECA-CAPS
Terry Wesley, Office of RA-EJ Coordinator
Mark Pollins, OECA-WED
Joseph Theis, OECA-WED

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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
Region 2
290 Broadway
New York, New York 10007-1866

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IN THE MATTER OF: :
 :
City of Perth Amboy :
(Perth Amboy) :
NJPDES No. NJ0156132 :
 :
Respondent :
 :
Proceeding pursuant to §309(a) of the : ORDER
Clean Water Act, 33 U.S.C. §1319(a) : CWA-02-2008-3033
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STATUTORY AUTHORITY

The following findings are made and ORDER issued pursuant to Section 309(a)(3) of the Clean Water Act ("CWA"), as amended, 33 U.S.C. §1319(a)(3), which grants to the Administrator of the U.S. Environmental Protection Agency ("EPA") authority to issue orders requiring persons to comply with Sections 301, 302, 306, 307, 308, and 308 of the CWA, 33 U.S.C. §§1311, 1312, 1316, 1317, and 1318, and any permit condition or limitation implementing a National Pollutant Discharge Elimination System ("NPDES") permit issued under Section 402 of the CWA, 33 U.S.C. §1342. This authority has been delegated to the EPA Regional Administrator for Region 2 and further delegated to the Director of the Division of Enforcement and Compliance Assistance, U.S. EPA Region 2 ("Director").

Section 402 of the Act, 33 U.S.C. §1342, authorizes the Administrator of EPA to issue a NPDES permit for the discharge of any pollutant, or combination of pollutants subject to certain requirements of the CWA and conditions which the Administrator determines are necessary. Additionally, under the authority granted to the New Jersey Department of Environmental Protection ("NJDEP") by the EPA under Section 402(b) of the Act, 33 U.S.C. 1342(b), a New Jersey Pollutant Discharge Elimination System (NJPDES) permit is required to be issued to facilities by the NJDEP for the discharge of pollutants from said facilities from a point source to a navigable water of the United States.

The ORDER herein is based on findings of violation of Sections 301 and 402 of the CWA, 33 U.S.C. §§1311 and 1342, and the conditions of NJPDES Permit No. NJ0156132. Pursuant to Section 309(a)(5)(A) of the CWA, 33 U.S.C. §1319(a)(5)(A), the ORDER provides a time for compliance which the Director has determined to be reasonable.

FINDINGS

The Director makes the following findings of fact:

1. The City of Perth Amboy ("Perth Amboy") is a municipality, as defined in Section 502(4) of the CWA, 33 U.S.C. §1362(4), established under the laws of the State of New Jersey.
2. The City of Perth Amboy is a person under Section 502(5) of the CWA, 33 U.S.C. §1362(5).
3. Perth Amboy is the owner of a combined sewer collection and conveyance system and combined sewer overflow control facilities ("combined sewer system"), which includes pump stations, interceptors, force mains, gravity sewer lines, manholes, regulators and tide gates and other combined sewer overflow ("CSO") outfall structures. Perth Amboy contracts the operation of the system to Middlesex Water Company and JJS and Sons.
4. The combined sewer system is used for collecting and conveying sanitary wastewaters (domestic, commercial and industrial wastewaters) and storm water through the Woodbridge trunk line to the wastewater treatment facility operated by Middlesex County Utility Authority ("MCUA"), 2571 Main St., Sayreville, NJ 08872, authorized under NPDES permit No. NJ0020141.
5. The combined sewer system includes outfalls from which it discharges pollutants, as defined in Section 502(6) and (12) of the CWA, 33 U.S.C. §1362(6) and (12), from point sources, as defined in Section 502(14) of the CWA, 33 U.S.C. §1362(14), to waters of the United States, including the Arthur Kill and Raritan Bay.
6. The Arthur Kill and Raritan Bay are navigable waters under Section 502(7) of the CWA, 33 U.S.C. §1362(7), and implementing regulations at 40 CFR Part 122.
7. On January 27, 1995, the New Jersey Department of Environmental Protection ("NJDEP") issued permit no. NJ0105023, the NJPDES general permit for combined sewer systems.
8. The general permit became effective March 1, 1995 and expired on February 28, 2000.
9. NJDEP reissued the NJPDES general permit on February 28, 2000 with an expiration date of February 28, 2005.
10. NJDEP revoked and reissued the NJPDES general permit on June 30, 2004, with an effective date of August 1, 2004, and an expiration date of July 31, 2009.
11. Perth Amboy applied for and received authorization under the NJPDES general permit under Authorization Number NJ0156132, and has been covered under the conditions and limitations in the permit at all relevant times under the ORDER.

12. The NJPDES general permit authorizes Perth Amboy to discharge pollutants from combined sewer outfalls to the Arthur Kill and Raritan Bay under conditions and limitations prescribed in the permit.
13. On February 21-22, 2007, EPA, NJDEP personnel and EPA contractors conducted a compliance evaluation inspection of the Perth Amboy combined sewer system.
14. Under authority of Section 308 of the CWA, 33 U.S.C. §1318, EPA requested Perth Amboy provide information relevant to the combined sewer system and compliance with CWA requirements and conditions and limitations of the NJPDES general permit.
15. Based on the inspection findings and review of information Perth Amboy provided to EPA, EPA found violations of the CWA and NJPDES permit conditions and limitations in a number of areas, including but not limited to the following:
 - a. dry weather overflows prohibited under the CWA and the permit (NJPDES permit no. NJ0156132, paragraph I.C.2.b.);
 - b. failure to prevent tidal intrusion into the collection system as required under the permit (NJPDES permit no. NJ0156132, paragraph I.C.3.b.);
 - c. failure to implement a proper operations and maintenance program as required under the permit (NJPDES permit no. NJ0156132, paragraph I.C.5.b.); and
 - d. failure to maintain facilities to maximize conveyance of wastewater to the treatment plant and minimize the frequency and duration of combined sewer overflows to the receiving waters, as required under the permit (NJPDES permit no. NJ0156132, paragraph I.C.6.b.).
16. Based upon Paragraphs 1-15 above, Perth Amboy has violated Section 301 of the CWA, 33 U.S.C. §1311, and permit conditions and limitations in a permit issued under Section §402 of the CWA, 33 U.S.C. §1342.

ORDERED PROVISIONS

Based upon the foregoing and pursuant to the authority of Section 309(a)(3) of the CWA, it is hereby ORDERED that:

1. Immediately upon receipt of the duplicate copies of the ORDER, a responsible official of Perth Amboy shall complete the acknowledgment of receipt on one of the originals of this ORDER and return said original to the Chief, Water Compliance Branch, in the enclosed envelope.

2. Within thirty (30) days of the date of receipt of this ORDER, Perth Amboy shall conduct an inspection of the combined sewer system owned or operated by Perth Amboy. Perth Amboy shall inspect and prepare an engineering assessment of the mechanical and structural integrity and operability of each portion of the combined sewer system, including the identification of any recommended rehabilitation measures or correction actions necessary to bring the facilities into compliance with the provisions of C.6. of the NJPDES general permit, "Maximization of Conveyance of Wastewater to DTW for Treatment." Perth Amboy shall document the evaluation process, the findings of the inspections, the conclusions, and recommendations of the engineering assessment.
3. Within thirty (30) days of the date of receipt of this ORDER, Perth Amboy shall submit a report to EPA and NJDEP describing the condition of each of the regulators and tide gates, incorporating the required documentation and evaluation ordered in Paragraph 2 above.
4. Within sixty (60) days of the date of receipt of this ORDER, Perth Amboy shall submit a report to EPA and NJDEP that describes operability and structural integrity of pump stations, interceptors, force mains, gravity sewer lines, and manholes, incorporating the required documentation and evaluation ordered in Paragraph 2., above.
5. Where regulators and tide gates are found not operating properly, or where conditions show tidal flow entering the combined sewer system, Perth Amboy shall take immediate action to service and remedy the problem. In cases where the regulator or tide gate was repaired during the inspection, such information shall be noted in the required report.
6. If regulators or tide gates cannot be remedied with immediate action at the time of the inspection, Perth Amboy shall prioritize the problem so that repair and service work is completed within sixty (60) days of the date of receipt of this ORDER. The plan for repair and service work shall be included in the report described above.
7. Within thirty (30) days of the date of receipt of this ORDER, Perth Amboy shall develop and implement a plan to inspect each of its regulators and tide gates on a weekly basis and make immediate repairs to ensure proper operation.
8. Perth Amboy shall submit, on a quarterly basis, documentation demonstrating each regulator and tide gate inspection, including the findings of the inspections and any repairs made or that will be made.
9. In complying with Paragraph 2 above, Perth Amboy shall assess sedimentation levels throughout the combined sewer system. Where sedimentation exists, Perth Amboy shall report to EPA levels of sedimentation and diameter size of relevant portions of sewer lines.
10. Within thirty (30) days of the date of receipt of this ORDER, Perth Amboy shall remove all flow obstruction caused by sediment and debris accumulations at sections of the combined sewer system.

11. Within thirty (30) days of the date of receipt of this ORDER, Perth Amboy shall develop and implement a plan to remove and prevent accumulations of debris and sediment from the combined sewer system. The plan shall identify all sections of the combined sewer system that routinely accumulate sediment and debris deposits and a schedule for sediment and debris cleaning work to be completed as expeditiously as practicable.
12. Perth Amboy shall submit the sediment and debris removal plan to EPA and NJDEP within thirty (30) days of the date of receipt of this ORDER. The sediment and debris removal plan shall include a plan to sample combined sewer system sediment and debris to determine if it is toxic prior to initiation of removal of sediment and debris.
13. Within thirty (30) days of the date of receipt of the sediment and debris removal plan from Perth Amboy, should EPA have any comments on the submitted plan, these comments will be provided to Perth Amboy within thirty (30) days. If EPA does not transmit comments within the thirty (30) day period, Perth Amboy shall immediately begin implementing the sediment and debris removal plan. If EPA does transmit comments within a thirty (30) day period, Perth Amboy shall incorporate the EPA comments into its sediment and debris removal plan and begin implementing the sediment and debris removal plan within thirty (30) days of receiving the EPA comments.
14. Beginning immediately upon receipt of the ORDER, Perth Amboy shall operate and maintain the facilities to maximize the conveyance of wastewater to the treatment facility operated by MCUA, authorized under NJPDES permit No. NJ0020141 for treatment and to minimize the frequency and duration of CSOs to the receiving waters. Maximizing conveyance to the treatment facility shall include, at a minimum, utilizing the Front Street, State Street, Amboy Avenue and Second Street Pumping Stations to their maximum ability and ensuring that the combined sewer system is clear of debris and sediment and capable of maximum conveyance to the Front Street, State Street, Amboy Avenue and Second Street Pumping Stations.
15. Within thirty (30) days of the date of receipt of this ORDER, Perth Amboy shall develop and implement operating procedures for wet weather events that shall include the following practices: opening main gates at the onset of wet weather at each pump station; maximizing flow volume; and minimizing combined sewer overflows and system backups.
16. The wet weather operating procedures shall be in writing and promulgated to the Chief Engineer, Plant Managers, and Plant Operations Superintendents, and all personnel responsible for pump station and related physical plant operations. Perth Amboy shall submit a copy of the wet weather operating procedures to EPA and NJDEP within thirty (30) days of the date of receipt of this ORDER.
17. Perth Amboy shall maintain flow monitoring and system operating data for the combined sewer system and submit this data in quarterly reports to EPA.

18. Perth Amboy shall repair, replace and/or upgrade the Second Street Pump Station flow meter so that at a minimum, the maximum pumping capacity of the pump station can be accurately measured (13.7 MGD or larger) and recorded. The flow metering requirements should be completed within thirty (30) days of receipt of this ORDER. Perth Amboy shall provide information on the capabilities of the flow meter (including model number if existing unit is to be replaced) and certification that the flow meter has been calibrated and is accurate in accordance with appropriate requirements, to EPA and NJDEP within sixty (60) days of receipt of this ORDER.
19. Perth Amboy shall submit quarterly reports to EPA documenting compliance with requirements under this ORDER. Relevant quarterly periods commence August 1 and are as follows: August through October, November through January, February through April, and May through July.
20. Perth Amboy shall submit the quarterly report for the August through October quarter to EPA not later than November 15, 2008. Subsequent quarters shall be submitted to EPA within fifteen (15) days of the date marking the end of the quarter.
21. Quarterly reports shall document the following:
 - a. inspections of regulators and tide gates, observations, maintenance repairs and service, and timing thereof;
 - b. removal of accumulations of debris and sediment from the combined sewer system by providing the volume and/or weight of debris/sediment removed (Note: if debris/sediment is determined to be toxic, this information must be included in the report, along with the method of disposal);
 - c. data on flow to the treatment plant, main gate operations, flow depth, surcharged conditions, and system backups
 - d. work performed during the previous three-month period and the scheduled work to be performed during the next three-month period.
22. Perth Amboy shall sign and certify reports in accordance with EPA regulations at 40 CFR 122.22.
23. All information required to be submitted shall be sent by registered mail or its equivalent to the following addresses:

Douglas McKenna, Chief,
Water Compliance Branch
Division of Enforcement and Compliance Assistance
U.S. Environmental Protection Agency - Region 2
290 Broadway - 20th floor
New York, NY 10007-1866

24. This ORDER does not constitute a waiver from compliance with or a modification of the effective terms and conditions of the CWA, or the conditions and limitations of the applicable NJPDES permit, including modifications thereto and renewals thereof as are applicable, federally-approved, and in effect at the time, and these requirements remain in full force and effect. This ORDER is an enforcement action taken by EPA to ensure swift compliance with the CWA. Issuance of an Administrative Order shall not be deemed an election by EPA to forego any civil or criminal actions which would seek penalties, fines, or other appropriate relief under the CWA.
25. This ORDER shall become effective upon the date of execution by the Director, Division of Enforcement and Compliance Assistance.
26. This ORDER shall terminate one year after the date of execution by the Director, Division of Enforcement and Compliance Assistance.

Dated: JULY 25, 2003

Signed: _____

Dore LaPosta, Director
Division of Enforcement and Compliance
Assistance

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2**

IN THE MATTER OF:

City of Perth Amboy (Perth Amboy)
Perth Amboy, NJ

NJPDES No. NJ0156132

Respondent

Proceeding pursuant to §309(a) of the Clean Water
Act, 33 U.S.C. §1319(a)

ADMINISTRATIVE ORDER

CWA-02-2008-3033

I, _____, an officer of the City of Perth Amboy (Perth
Amboy)

with the title of, _____, do hereby acknowledge the receipt of copy
of the ADMINISTRATIVE ORDER, CWA-02-2008-3033.

DATE: _____

SIGNED: _____